

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

In re:	§	Chapter 7
	§	
JOSIAH'S TRUCKING LLC	§	Case No. 21-70009 (EVR)
	§	
Alleged Debtor	§	(Involuntary Proceeding)
	§	
CATHERINE STONE CURTIS,	§	
INTERIM TRUSTEE	§	
	§	
v.	§	Adv. No. 20-[●]
	§	
LAW OFFICE OF ROGELIO SOLIS,	§	
PLLC; et al.¹	§	

DECLARATION IN SUPPORT OF TEMPORARY RESTRAINING ORDER

STATE OF TEXAS	§	KNOW ALL MEN BY THESE PRESENTS:
	§	
COUNTY OF HIDALGO	§	

I, Luis Cardenas, declare under penalty of perjury that the following is true and correct and within my personal knowledge. My names is Luis Cardenas and I am the lead attorney in the representation of the Petitioning Creditors Sonia Tellez, Carlos Tellez, and Rosemary Rodriguez, individually and as next friend of I Tellez, a Minor. I am over eighteen (18) years of age, competent to make this Declaration, and have personal knowledge of the facts attested to herein, and they are true and correct.

This Declaration is given in support of Interim Trustee's *Emergency Motion for Temporary Restraining Order and Preliminary Injunction* ("**Motion**").

¹ The Defendants in the above-captioned adversary proceeding are the Law Office of Rogelio Solis, PLLC; the Daniel Sorrells Law Firm, PLLC; Ana Gomez; and Reyes Adrian Ortiz, individually and obo Anna Isabel Ortiz, Deceased.; Rogelio Solis; and Daniel Sorrells

I am personally familiar with the events described herein. Exhibits 1 through 6 attached to this Declaration each constitutes a business records of my law firm and I am the custodian of documents for such records, all having been authored by my or received by me, and all being kept in the ordinary course of the business and my firm's regular practice pursuant to my supervision, each records was made at or near the time by or from information transmitted by someone with knowledge. All the Exhibits to this Declaration are true and correct copies of the originals. Pursuant to Rule 803(6) I have caused a true and accurate copy of this Declaration to be furnished to all persons listed in the certificate of service.

Petitioning Creditors are all among a class of representatives of victims, which include wrongful-death claims, arising from a negligent motor vehicle collision involving the Alleged Debtor's tractor-trailer. On December 19, 2020, Juan Manuel Carrerra was driving a tractor-trailer combination, owned and controlled by Josiah's Trucking LLC and/or David Vasquez, northbound on FM 493 in Edinburg, Texas. When entering a curve in the roadway, Mr. Carrerra lost control of the tractor-trailer sending the trailer portion of the vehicle into the southbound lane. At that moment, Carlos Tellez, Jr., was travelling in a vehicle in the southbound lane on FM 493. The trailer portion of the tractor-trailer invaded the southbound lane striking Carlos Tellez, Jr. and Anna Isabel Ortiz, causing fatal injuries that led to their deaths. (the "*Accident*"). See police report attached as **Exhibit 1** to this Declaration.

At the time of the Accident, Brooklyn Specialty Insurance Company RRG, Inc. (the "*Brooklyn Specialty*") insured Debtor under Policy ATP-4-062020 (the "**Policy**"). Information available reflects that the Policy provides only One Million Dollars (\$1,000,000) in liability coverage. If this information is correct, this may be the total amount of coverage under the terms

of the Policy, regardless of the number of potential insured or the number of persons with claims as a result of the accident in question.

On December 29, 2020, on behalf of the Petitioning Creditors, I contacted Brooklyn Specialty notifying them of the Accident, the Petitioning Creditors' claims, and requesting the preservation of certain evidence for investigation (the "*December 29th Correspondence*"). See **Exhibit 2** attached to this Declaration.

On January 4, 2021, the Petitioning Creditors filed suit against Josiah's Trucking, David Vasquez (the owner of Josiah's Trucking), and Mr. Carrerra in the Judicial District Court of Hildago County under Cause Number C-0029-21-D (the "*Tellez Lawsuit*"). See **Exhibit 3** attached to this Declaration.

Brooklyn Specialty responded to the my December 29th Correspondence on Thursday, January 7, 2021, and stated that it intended to repair the vehicle, but offered the Petitioning Creditors an opportunity to inspect it before its repair (the "*BSI Inspection Correspondence*"). See **Exhibit 4** attached to this Declaration.

On January 8, 2021, on behalf of the Petitioning Creditors, I responded and, based on our inspector's availability, proposed January 13th as the inspection date. See **Exhibit 5** attached to this Declaration.

As shown by the exhibits hereto the Alleged Debtor, Brooklyn Specialty and certain claimants likely have implemented settlement agreements that could include actually paying certain favored claims.

The Alleged Debtor or its insurers are intending to or may have already settled and made distributions to some claimants. See **Exhibit 6**, which refers to the policy limits being exhausted. Upon information and belief, the Alleged Debtor or Brooklyn Specialty settled with

persons represented by Rogelio Solis of the Law Office of Rogelio Solis, PLLC and Daniel Sorrells of the law firm of Daniel Sorrells Law Firm, PLLC; and Brooklyn Specialty has wired the proceeds of the policy to those attorneys.

None of the Petitioning Creditors have settled or received any payments.


Upon information and belief the persons and/or entities involved in making these settlements and/or distributions did so with the knowledge that some or all of the Petitioning Creditors would not receive any proceeds, and with the knowledge that the Alleged Debtor is hopelessly insolvent and was insolvent at the time of any such settlements and/or distributions.

As shown by **Exhibit 6** after the Accident, the Brooklyn Specialty and/or its agents acknowledged the Alleged Debtor's liability by offering the Debtor's Policy limits in insurance coverage to other creditors. Soon after counsel for Brooklyn Specialty represented to me that Brooklyn Specialty paid \$1,000,000.00 under the Policy.

The Alleged Debtor appears to have little or no assets with which to pay the millions of dollars in victim claims other than the proceeds from the Policy.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 9, 2021



Luis Cardenas

CERTIFICATE OF SERVICE

The undersigned counsel certifies that on February 9, 2021 notice of the filing of this Declaration was served on the below named parties by available knowledge, including by email, if known, fax, if known, and overnight mail, if known.

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/s/ Simon R. Mayer

Simon R. Mayer